

**THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

JOSEPH KIRBY

PLAINTIFF

VS.

CIVIL ACTION NO. 2:19-cv-00195-KS-MTP

**SHELTER INSURANCE COMPANY;
JEREMY JORDAN; ALLEN SUMRALL and
JOHN AND JANE DOES 1-5**

DEFENDANTS

**DEFENDANTS JEREMY JORDAN AND
ALLEN SUMRALL'S MOTION TO DISMISS**

COMES NOW Defendants, Jeremy Jordan (“Jordan”) and Allen Sumrall (“Sumrall”), by and through counsel of record, and hereby move the Court to dismiss them, without prejudice, from this lawsuit pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. In further support of this Motion, Defendants would state the following:

1. On November 18, 2019, Plaintiff Joseph Kirby filed his Complaint against Shelter Mutual Insurance Company (“Shelter”) following a fire loss occurring at the residence insured by Shelter on March 13, 2019. In a nutshell, Plaintiff contends that his dogs may have caused the fire, while Shelter contends that Plaintiff set the fire, in violation of the terms of Shelter’s policy and Mississippi law. Notably, an accelerant was found at the fire’s origin.
2. For the reasons and authorities stated in Shelter’s December 17, 2019 Notice of Removal (ECF No. 1) and Shelter’s Motion to Sever and Supporting Memorandum (ECF Nos. 5 and 6), which are specifically referred to and incorporated by reference, Jordan and Sumrall have been fraudulently joined in this lawsuit to defeat diversity jurisdiction.

3. Both Jordan and Sumrall are Mississippi residents. As a result, the Court lacks subject matter jurisdiction over these Defendants, and they should be dismissed from this lawsuit without prejudice.

4. Given the relatively straightforward nature of the requested relief, Defendants request that the Court waive local rule requirements on the content of motions and the necessity of filing an accompanying memorandum.

WHEREFORE, PREMISES CONSIDERED, Defendants Jeremy Jordan and Allen Sumrall therefore move the Court to enter an order dismissing them from this lawsuit without prejudice. In addition, Defendants Jeremy Jordan and Allen Sumrall request any additional relief that the Court deems appropriate.

THIS, the 26th day of December, 2019.

RESPECTFULLY SUBMITTED,

**JEREMY JORDAN AND ALLEN SUMRALL,
DEFENDANTS**

By: /s/ Michael C. Gatling
DALE G. RUSSELL (MSB # 10837)
MICHAEL G. GATLING (MSB # 101530)
COUNSEL FOR DEFENDANTS

OF COUNSEL:

COPELAND, COOK, TAYLOR & BUSH, P.A.
600 Concourse, Suite 200
1076 Highland Colony Parkway
Ridgeland, Mississippi 39157
Post Office Box 6020
Ridgeland, Mississippi 39158
T: (601) 856-7200
F: (601) 856-7626
drussell@cctb.com
mgatling@cctb.com

CERTIFICATE OF SERVICE

I do hereby certify that the above and foregoing was electronically filed with the Clerk of the Court using the ECF system, which sent notice to all counsel of record.

THIS, the 26th day of December, 2019.

/s/ Michael C. Gatling
Michael C. Gatling